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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/623,888	07/17/2003	Robert Gurny	4-20437D	7666
1095	7590	12/14/2006		
NOVARTIS CORPORATE INTELLECTUAL PROPERTY ONE HEALTH PLAZA 104/3 EAST HANOVER, NJ 07936-1080			EXAMINER KISHORE, GOLLAMUDI S	
			ART UNIT	PAPER NUMBER
			1615	

DATE MAILED: 12/14/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/623,888	<b>Applicant(s)</b> GURNY ET AL.	
	<b>Examiner</b> Gollamudi S. Kishore, Ph.D	<b>Art Unit</b> 1615	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 10 October 2006.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1,32 and 34-37 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,32 and 34-37 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

The RCE dated 10-10-06 is acknowledged.

Claims included in the prosecution are 1, 32 and 34-37.

In view of the amendments to the claims, the 112, second paragraph rejection is withdrawn.

### ***Claim Rejections - 35 USC § 103***

1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
2. Claims 1, 32 and 34-37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Allemann et al (international Journal of Pharmacology, 1992) of record in combination with Kelm (5,651,983).

Allemann et al disclose a process of preparation of polymeric nanodispersions containing water-soluble polymer (polyvinyl alcohol) and Eudragit S (anionic polymer which is soluble from pH 7 upwards) or ethyl acetate (abstract and page 248). What is lacking in Allemann is the teaching of the use of these nanospheres for encapsulating water insoluble drugs. However, on page 253 Allemann teaches that these nanospheres are for sustained release dosage forms and therefore, it would have been prima facie obvious to one of ordinary skill in the art to use Allemann's nanosphere dispersions for the water insoluble drugs with a reasonable expectation of success. What is lacking in Allemann is the teaching of polyvinyl phthalate instead of Eudragit.

Art Unit: 1615

Kelm while disclosing enterically coated powdered suspensions of bisacodyl teaches that either Eudragit or polyvinyl acetate phthalate or other enteric polymers could be used to coat bisacodyl (examples and claim 7).

It would have been obvious to one of ordinary skill in the art to use polyvinyl acetate phthalate instead of Eudragit in the compositions of Allemann with a reasonable expectation of success since Kelm teaches that either Eudragit or polyvinyl acetate phthalate could be used to coat powdery suspensions for colonic delivery.

2. Claims 1, 32 and 34-37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Allemann et al (international Journal of Pharmacology, 1992) of record in combination with Kawata (4,343,789), Kantor (4,895,725) by themselves or in combination, further in view of Kelm.

Allemann et al disclose a process of preparation of polymeric nanodispersions containing water-soluble polymer (polyvinyl alcohol) and Eudragit S (anionic polymer which is soluble from pH 7 upwards) or ethyl acetate (abstract and page 248). What is lacking in Allemann is the teaching of the use of these nanospheres for encapsulating water insoluble drugs. However, on page 253 Allemann teaches that these nanospheres are for sustained release dosage forms and therefore, it would have been prima facie obvious to one of ordinary skill in the art to use Allemann's nanosphere dispersions for the water insoluble drugs with a reasonable expectation of success.

As pointed out in the earlier action, Kawata et al disclose fine powders of active

Art Unit: 1615

agents of low solubility coated with various copolymers of methacrylic acid and methacrylic esters or hydroxypropylmethyl cellulose phthalates. The fine particles are mixed with additives and filled in capsules for oral delivery. The particles can be lyophilized. (Abstract, col. 2, lines 13-44, col. 5, lines 10-20, Examples and claims).

Kantor teaches that lipophilic compounds such as fish oils can be delivered orally by using enterically coated capsules. The lower limit of the capsules is 100 nm. The enteric polymers are claimed cellulose acetate phthalate and cellulose acetate trimellitate (Examples and claims 4 and 5).

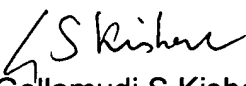
What is lacking in Kawata or Kantor is the teaching of polyvinyl acetate phthalate as the enteric material, which is resistant to gastric juices and soluble in intestinal juices. Assuming that Allemann's drugs are not water insoluble, one of ordinary skill in the art would be motivated to use Allemann et al's nanodispersions for the delivery of water insoluble drugs with a reasonable expectation of success since Kawata shows the feasibility of enteric delivery of water insoluble drugs using enteric formulations containing water insoluble drugs. One of ordinary skill in the art would be motivated to use the formulations of Allemann and containing water insoluble drugs orally since Kantor teaches that suspensions of enterically coated nanocapsules can be administered orally. The use polyvinyl acetate phthalate instead of Eudragit in the compositions of Allemann with a reasonable expectation of success would have been obvious to one of ordinary skill in the art since Kelm teaches that either Eudragit or polyvinyl acetate phthalate could be used to coat powdery suspensions for colonic delivery.

Applicant's arguments have been fully considered, but are deemed to be moot in view of these new rejections.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gollamudi S. Kishore, Ph.D whose telephone number is (571) 272-0598. The examiner can normally be reached on 6:30 AM- 4 PM, alternate Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Woodward Michael can be reached on (571) 272-8373. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

  
Gollamudi S Kishore, Ph.D  
Primary Examiner  
Art Unit 1615